

Reg 56 Issues List

	<u>Issue</u>	<u>Relevant Statutory Text</u>	<u>Operative Question</u>	<u>Staff Position</u>	<u>DPA Position¹</u>	<u>Gary Myers Position</u>	<u>DNREC Position</u>
<u>1.</u>	Total Retail Cost of Electricity	<p>“Retail electricity supplier” means a person or entity that sells electrical energy to end-use customers in Delaware, including but not limited to nonregulated power producers, electric utility distribution companies supplying standard offer, default service, or any successor service to end-use customers. ²</p> <p>“The State Energy Coordinator in consultation with the Commission, may freeze the minimum cumulative solar photovoltaics/eligible energy resources requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 1%/3% of the total retail cost of electricity for retail</p>	What should be included in that definition of “total retail cost of electricity for retail electricity suppliers?” Supply only? Supply and Transmission? Supply, Transmission, and Distribution?	Supply, Transmission, and Distribution.	Supply and Transmission.	“Excluding any delivery charges.”	Support Staff’s Position.
				Responsive Staff Memo at 5-15.	DPA initial Comments at 8-15. DPA reply Comments at 11-27.	Initial Comments at 30-34. Reply Comments at 16-21.	DNREC initial Comments at 3.

¹ Caesar Rodney Institute generally supports the DPA.

² 26 Del. C. §352(22).

		electricity suppliers during the same compliance year.” ³					
2.	Bloom	<p>‘The Commission shall develop procedures for tracking the generation output of qualified fuel cell provider projects such that energy produced by such projects shall fulfill the commission-regulated electric company’s state-mandated REC and SREC requirements set forth in §354 of this title as follows:</p> <p>(1) Fulfillment of the equivalent of 1 REC for each megawatt-hour of energy produced by a qualified fuel cell provider project.</p> <p>a. The commission-regulated electric company can use energy output produced by a qualified fuel cell provider project to fulfill a portion of SREC requirements at a ratio of 6MWH of RECs per 1MWH of SRECs. The Commission-regulated electric company may utilize a portion of energy output from a qualified fuel cell</p>	Should the costs of the Bloom QFCP energy output that Delmarva is entitled to use to fulfil its REPSA obligations be included in the “total cost of compliance?”	No Bloom costs should be included.	The cost of the Bloom energy output that Delmarva uses to satisfy its REPSA requirements should be included in the calculation of the total retail cost of electricity for retail energy suppliers.	All Bloom costs should be included.	Support Staff’s Position.
				Responsive Staff Memo at 15-24.	DPA initial Comments at 15-24. DPA reply Comments at 27-41.	Initial Comments at 11-22. Supplement 1-10. Reply Comments at 3-9.	DNREC initial Comments at 3-5.

³ 26 Del. C. § 354 (i) & (j).

		<p>provider project in any given year to fulfill no more than 30% of the SREC requirements unless ...</p> <p>c. The right of a commission-regulated electric company to use energy output produced by a qualified fuel cell provider project to fulfill its REC and SREC requirements in accordance with this section shall not expire until actually applied to fulfill such requirements.⁴</p> <p>(d) Before a commission-regulated electric company may collect any charges on behalf of a qualified fuel cell provider project that would entitle the commission-regulated electric company to reduce its REC and SREC requirements as provided for in § 353(d) of this title, the Commission must adopt tariff provisions applicable to such project.⁵</p> <p>“The State Energy</p>					
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⁴ 26 Del. C. §§353(d)(1)a., (c).

⁵ 26 Del. C. §364(d).

		Coordinator in consultation with the Commission, may freeze the minimum cumulative solar photovoltaics requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 1% of the total retail cost of electricity for retail electricity suppliers during the same compliance year... The total cost of compliance shall include the costs the costs associated with any ratepayer funded state solar rebate program, [S]REC purchases, and solar alternative compliance payments.” ⁶					
3.	E&C Director Discretion	“The [E&C Director] in consultation with the Commission, may freeze the minimum cumulative solar photovoltaics/eligible energy resources requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 1%/3% of the total retail cost	What discretion does the E&C Director have to institute or forego a freeze if the statutorily-mandated calculations show the 1% and 3% statutory percentages have been reached?	The Commission will determine by Order whether to adopt the E&C Director’s determination after Consultation.	Revised regulations have satisfied issues; Public comment should be allowed at Consultation.	The E&C Director has no discretion. Proposed regulations are insufficient.	The statute gives the E&C Director the authority to calculate the total cost of compliance The statute also gives the E&C Director the discretion to freeze the RPS, in consultation with the Commission, if the total cost of compliance exceeds

⁶ 26 Del. C. § 354 (i) & (j).

		of electricity for retail electricity suppliers during the same compliance year. ... The freeze shall be lifted upon a finding by the Coordinator, in consultation with the Commission, that the total cost of compliance can reasonably be expected to be under the 1%/3% threshold.” ⁷					1% or 3% of “the total retail cost of electricity for retail electricity suppliers during the same compliance year.” The Commission’s statutory role is to consult, not approve, deny, or modify the E&C Director’s decision.” ⁸
				Non-Substantively Revised Regulations (for Dec. 7); Staff Memo (for Dec. 7).	DPA reply Comments at 41-42.	Initial Comments at 1-10, 23-29. Reply Comments at 10-15.	DNREC Reply Comments at 1-6.

⁷ 26 Del. C. §§354(i), (j).

⁸ Mid-Atlantic Renewable Energy Coalition (“MAREC”) supports this position. MAREC also posits all costs and benefits should be considered by DNREC. MAREC Comments at 1-2.